

## REMARKS

Applicants submit this Request for Reconsideration After Final in reply to the final Office Action mailed January 4, 2006.

On pages 2-4 of the final Office Action, claims 1-4, 8, 12, 13, and 17-24 were rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 4,929,235 to Merry et al. ("Merry"); and claims 5-7, 9-11, and 14-16 were rejected under 35 U.S.C. §103(a) as being unpatentable over Merry. Applicants respectfully traverse these rejections.

Merry does not disclose or suggest the invention as claimed in independent claim 1. For example, independent claim 1 recites a suction adapter having a manifold with a suction port and first and second device ports. "[A] flexible flow valve [has] an opening positioned in both a first flow path between the first device port and the second device port and a second flow path between the first device port and the suction port, the flexible flow valve permitting simultaneous fluid flow between the suction port and both the first and second device ports." Merry does not disclose or suggest at least these aspects of the claimed invention either alone or in combination with the other aspects of the claimed invention.

Merry discloses a main valve body 11 having a side port 12, luer lock 13, and distal lock 14. An item such as a syringe or a corrugated sterile sleeve connects to female luer lock cap 13. A tube connects to port 12 and "leads to a connector or stopcock for infusion, e.g. heparin, flushing, blood sampling, pressure monitoring, etc." (Col. 2, lines 51-54). Gaskets 26, 29 are disposed between a passage flow chamber 24

and a space 30. A catheter 19 may be placed through female luer lock cap 13, gaskets 26, 29, passage flow chamber 24, and distal lock 14. The catheter 19 inserts within a blood vessel lumen 21 through an incision 22, and extends proximally beyond valve body 11. (Figs. 1-3; col. 2, line 48 through col. 3, line 7).

On page 2 of the final Office Action, the Examiner asserts that distal lock 14 corresponds to the claimed "suction port," that side port 12 and female luer lock cap 13 correspond to the claimed "first device port" and "second device port," and that gasket 26 corresponds to the claimed "flexible flow valve." Even assuming *arguendo* that this is true (a contention with which Applicants do not agree at least because only side port 12 is disclosed at col. 2, lines 16-17 as supporting aspiration), Merry still does not disclose or suggest, "a flexible flow valve having an opening positioned in both a first flow path between the first device port and the second device port and a second flow path between the first device port and the suction port, the flexible flow valve permitting simultaneous fluid flow between the suction port and both the first and second device ports," as set forth in claim 1.

For example, Applicants disagree with the assertion on page 2 of the final Office Action that a "flexible flow valve (26) is positioned in both a first flow path between a first device port (13) and a second device port (12) and a second flow path between the first device port (13) and the second port (adjacent reference character 14)." Merry does not disclose any fluid flow between female luer lock cap 13 and either distal lock 14 or side port 12. Instead, Merry discloses a device directly in contrast to the claimed invention. The Merry device is an introducer for introduction of a catheter or other device into a

blood vessel. The very purpose of the introducer is to prevent the passage of blood therethrough during introduction and use of the catheter.

Specifically, Merry discloses that gasket 26, which is positioned between female luer lock cap 13 and both of side port 12 and distal lock 14, "is of sufficient rigidity to maintain the planar position of FIG. 1 against the patent's blood pressure when no catheter is present." (Col. 3, lines 5-7). This is to prevent leakage of blood through the introducer when, for example, side port 12 is used for blood supply, infusion, or aspiration. (Col. 2, lines 10-17). Thus, when no catheter is introduced, gasket 26 is closed and no fluid can flow through gasket 26. When a catheter is disposed through gasket 26, as shown in Figs. 2-3, gasket 26 forms a seal around the outer surface of the catheter to prevent blood leakage therethrough. Thus, even when gasket 26 is open by introduction of a catheter, no fluid can flow through gasket 26.

Accordingly, if no fluid can flow through gasket 26, then there is neither "a first flow path between the first device port and the second device port" nor "a second flow path between the first device port and the suction port," as recited in claim 1. Moreover, gasket 26 does not permit "simultaneous fluid flow between the suction port and both the first and second device ports." Thus, claim 1 patentably distinguishes from Merry. For at least these reasons, Applicants respectfully request withdrawal of the Section 102(b) and Section 103(a) rejections based on Merry, and allowance of pending claims 1-24.

Applicants further submit that claims 2-24 depend from independent claim 1, and are therefore allowable for at least the same reasons that independent claim 1 is

allowable. In addition, each of the dependent claims recite unique combinations that are neither taught nor suggested by the cited references, and therefore also are separately patentable.

Applicants respectfully request that this Request for Reconsideration After Final be considered by the Examiner, placing claims 1-24 in condition for allowance. No new issues are raised, and this response does not necessitate the undertaking of any additional search of the art by the Examiner, as all of the elements and their relationships claimed were earlier claimed verbatim. Therefore, this Request for Reconsideration After Final should allow for immediate action by the Examiner.

Furthermore, Applicants respectfully point out that the final Office Action by the Examiner presented some new arguments as to the application of the art against Applicants' invention. It is respectfully submitted that the consideration of this Request for Reconsideration After Final would allow the Applicants to reply to the final rejections and place the application in condition for allowance.

In view of the foregoing remarks, this claimed invention is neither anticipated nor rendered obvious in view of the prior art references cited against this application. Applicants therefore request the Examiner's reconsideration and reexamination of the application, and the timely allowance of the pending claims.

The Office Action contains characterizations of the claims and the related art with which Applicants do not necessarily agree. For example, Applicants do not necessarily agree with comments on page 3-5 of the final Office Action regarding the nature of dependent claims 17-20 or the Section 103 rejection of certain dependent claims.

Unless expressly noted otherwise, Applicants decline to subscribe to any statement or characterization in the final Office Action.

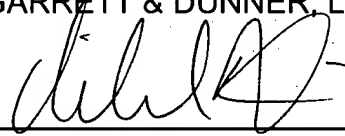
In discussing the specification, claims, and drawings in this Request for Reconsideration After Final, it is to be understood that Applicants are in no way intending to limit the scope of the claims to any exemplary embodiments described in the specification and/or shown in the drawings. Rather, Applicants are entitled to have the claims interpreted broadly, to the maximum extent permitted by statute, regulation, and applicable case law.

Please grant any extensions of time required to enter this Request for Reconsideration After Final and charge any additional required fees to our Deposit Account No. 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,  
GARRETT & DUNNER, L.L.P.

Dated: February 1, 2006

By:   
Michael W. Kim  
Reg. No. 51,880